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FILED
U.S. DISTRICT COURT
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S.D. OF N.Y. W.P.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
STEVEN DI PAOLO,

Plaintiff,

v.

SHOWTIME/PRO-FORMANCE MOTORSPORTS
and SHOWTIME MOTORSPORTS, LLC,

Defendant.
-----X

Civil Action No. **'07 CIV 11289**

COMPLAINT

JUDGE KARAS

Plaintiff, by his attorneys, FARRAUTO & BERMAN, complaining of the
Defendants, hereby states:

FIRST: Plaintiff, STEVEN DI PAOLO, is an individual residing in the
State of New York, with a place of residence located at 3757 Cranberry Lane, Shrub Oak,
New York, 10588.

SECOND: Upon information and belief, defendant, SHOWTIME/PRO-
FORMANCE MOTORSPORTS is a defunct corporation, and was, during its corporate
existence, a motor carrier engaged in interstate commerce, authorized by the Federal
Motor Carrier Safety Administration ("FMCSA") to transport property throughout the 48
contiguous United States.

THIRD: Upon information and belief, Defendant, SHOWTIME
MOTORSPORTS, LLC, is an Alabama corporation, and the corporate successor in

interest to SHOWTIME/PRO-FORMANCE MOTORSPORTS, and has a place of business located at 2288 Highway 46, Heflin, Alabama, 36264.

FOURTH: This court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.A. §1337, as this action involves the liability of a motor carrier under 49 U.S.C.A. §14706 and the amount in controversy exceeds \$10,000.00, exclusive of interest and costs. Venue is proper in that the shipment at issue was transported into this District.

FIFTH: On or about December 15, 2006, Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS transported a 1970 Dodge Challenger Automobile on behalf of Plaintiff.

SIXTH: On or about December 17, 2006, Plaintiff's shipment transported by Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS sustained loss or damage while in transit.

SEVENTH: The shipment at issue was tendered to Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS in good order and condition.

EIGHTH: Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS failed to deliver the shipment at issue in good order and condition at destination, in breach of the contract of carriage for the shipment.

NINTH: As a result of Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS's breach of the contract of carriage, Plaintiff has sustained actual damages in the amount of \$ 20,529.99.

TENTH: Upon information and belief, on or about January, 2007, Defendant SHOWTIME MOTORSPORTS, LLC became the corporation successor in interest to

Defendant SHOWTIME/PRO-FORMANCE MOTORSPORTS, and continues to do business at the same address as SHOWTIME/PRO-FORMANCE MOTORSPORTS.

ELEVENTH: Plaintiff duly filed, in writing, a notice of claim, with Defendants for its loss and damage claim, and demanded payment of each claim at issue. (A summary of Plaintiff's claim is annexed hereto as Exhibit "A".

TWELFTH: Defendants failed to acknowledge some or all of Plaintiff's claims as required by 49 C.F.R. § 370.5.

THIRTEENTH: Defendants failed to decline, pay or offer a written settlement compromise for some or all of the claims as required by 49 C.F.R. § 370.9.

COUNT I

FOURTEENTH: Plaintiff repeats and realleges each and every allegation of Paragraphs 1 through 13 as if fully set forth herein.

FIFTEENTH: Defendants are liable to Plaintiff for his full, actual damages as a motor carrier under 49 U.S.C.A. § 14706.

SIXTEENTH: As a result of Defendants' conduct and actions, Defendants are liable for Plaintiff's actual damages in the amount of \$ 20,529.99, together with interest thereon from the date that the shipment was delivered or scheduled to be delivered.

COUNT II

SEVENTEENTH: Plaintiff repeats and realleges each and every allegation of paragraphs First through Sixteenth as if fully set forth herein.

EIGHTEENTH: Defendants' failure to deliver the shipment at issue in good order and condition constitutes a violation of 49 U.S.C.A. § 14706.

NINETEENTH: Defendants' failure to acknowledge some or all of Plaintiff's claim constitutes a violation of 49 C.F.R. § 370.5.

TWENTIETH: Defendants' failure to decline or offer a written settlement compromise for some or all of Plaintiff's claims constitutes a violation of 49 C.F.R. § 370.9.

TWENTY-FIRST: Pursuant to the Interstate Commerce Act, Defendants are "liable for damages sustained by a person as a result of an act or omission of that carrier ... in violation of [this part / Title 49, U.S.C., Subtitle IV, Part B]," 49 U.S.C.A. §14704(a)(2).


TWENTY-SECOND: As a result of Defendants' breach of the contract of carriage under 49 U.S.C.A. § 14706 and Defendants' violations of the federal claim regulations at 49 C.F.R. pt. 370, Defendant is liable, under 49 U.S.C.A § 14704(a)(2) for Plaintiff's actual damages in the amount of \$ 20,529.99, together with interest thereon from the date that the shipment was delivered or scheduled to be delivered.

TWENTY-THIRD: As a result of Defendants' breach of the contract of carriage, under 49 U.S.C.A. § 14706, and Defendants' violations of the federal claim regulations at 49 C.F.R. pt 370, Plaintiff is entitled to an award of reasonable attorney's fees under 49 U.S.C.A. § 1470(e).

WHEREFORE, Plaintiff demands judgment against Defendants on Counts I and II of the complaint, in the total amount of \$ 20,529.99 together with prejudgment and post-judgment interest, an award of reasonable attorney's fees as authorized by statute,

and costs of suit be taxed against Defendants and for such other and further relief as this Court may deem just and proper in this matter.

Dated: Yonkers, New York
December 14, 2007



Eric Weiss, Esq.
FARRAUTO & BERMAN
Attorneys for Plaintiff
1250 Central Park Avenue
Yonkers, New York 10704
914-423-8880

September 26, 2007

Steven DiPaolo - Claimant
3757 Cranberry Lane
Shrub Oak, New York
10588

Showtime / Pro-Formance Motorsports – Carrier
2288 Highway 46
Heflin, AL 36264

This claim for damages to 1970 Dodge automobile is made against the carrier named above by Steven DiPaolo for damage in connection with the following shipment:

Description of shipment:	1970 Dodge Challenger Automobile VIN No. JS23V0B190096
Name and address of consignor:	Jack Thomas, West Hills, California
Shipped from:	West Hills, California to Shrub Oak, New York
Final destination:	3757 Cranberry Lane, Shrub Oak, New York
Bill of lading issued by:	Showtime/Pro-Formance Motorsports on December 21, 2006
Name and address of consignee:	Steven DiPaolo, 3757 Cranberry Lane, Shrub Oak, New York

Detailed Statement Showing How Amount Claimed is Determined: The claim consists of the following repairs to the automobile to restore its condition to as it was prior to its shipping:

Repair right and left door; repair of rocker panels; repair of left and right wheelhouse lip and quarter panel; welding of hood; left front wheelhouse weld and repair; prep under hood and paint; prep of trunk; remove and replace fender, door, locks, chrome, hood, trunk, interior panel emblem and badges; removal of paint from body; prep and paint trunk and reinstall tire jack; clean and re-undercoat undercarriage of vehicle, painting of car and jams, stripes, trim weatherstripping, and other related repairs as outlined in all annexed invoices.

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Breakdown of Repair Charges:

Magnum Motors, Ltd. Invoice of January 13, 2007	\$	200.00
Magnum Motors, Ltd. Invoice of January 25, 2007	\$	1,580.70
Magnum Motors, Ltd. Second Invoice of January 25, 2007	\$	1,539.00
Year One Invoice of January 19, 2007	\$	346.45
Year One Invoice of January 17, 2007	\$	786.53

Jim's Auto Parts Invoice of January 18, 2007	\$	398.85
Jim's Auto Parts Invoice of January 22, 2007	\$	692.76
Korek Designs Invoice of September 1, 2007	\$	14,985.70

TOTAL REPAIR AND PARTS CHARGES: \$ 20,529.99

In addition to the information given above, the following documents are submitted in support of this claim:

1. Bill of lading
2. Invoices from Korek Design, Magnum Motors, Ltd., Year One and Jim's Auto Parts.

The above statement of facts is certified as correct.

_____/s/_____
Steven DiPaolo